Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court Of The United States

Johnnie Slingerland ..... *Petitioner*

Frank Douglas Ward ..... *Petitioner*

V. No. 75-911
No. 75-912

United States of America ..... *Respondent*

PETITION FOR REHEARING OF ORDER DENYING
PETITION FOR WRIT OF CERTIORARI

ALLAN DISHONGH
Attorney at Law
1515 West Seventh, Suite 600
Little Rock, Arkansas 72202
(501) 375-5566

Counsel for Petitioners

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Petitioners pray that this Court grant rehearing of it's order of March 22, 1976, denying the petition for Writ of Certiorari, and that a Writ of Certiorari issue to review the judgment of the Court of Appeals for the Eighth Circuit in the above entitled cases as prayed for in the petitions filed December 29, 1975, herein.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT

1. To allow the convictions of petitioners to stand, without a complete review of the record below, is

to deny petitioners their constitutional guarantees of a fair trial. The 14th Amendment to the Constitution of the United States of America guarantees that a citizen will be protected against arbitrary judicial policies and practices which are designed to deny citizens a right of review and full protection of the law and the evidence of a particular situation. To deny certiorari to petitioners is, in effect, upholding an arbitrary and capricious court policy, the policy of the Eighth Circuit Court of Appeals, that allows an accused to be convicted solely on the uncorroborated testimony of an alleged co-conspirator. This policy clearly violates the Due Process Clause of the 14th amendment.

To say that petitioners herein are not entitled to a review of the record below is in effect encouraging perjured testimony and furthers the practice of one individual to make a "deal" for himself, testifying as to whatever facts he may choose to testify to, allowing a conviction to stand solely on the uncorroborated and unsupported testimony of a perjured witness.

The Eighth Circuit Court of Appeals arbitrarily picked out testimony that they chose to believe and discounted testimony it did not want to believe when the court reversed the conviction of two alleged co-conspirators and affirmed the convictions of petitioners herein, when in effect if one was guilty, all were guilty. To say that you can be part of the conspiracy but not be guilty of conspiracy because one only did certain small acts, and at the same time hold that another is guilty of conspiracy by committing the

same or similar act, clearly denies to the one the full protection of the law as granted by the 14th Amendment.

To deny certiorari to petitioners herein has the same effect as encouraging the lower courts to cast aside their judicial responsibility and allow the lower Court to make arbitrary and capricious findings when in fact those findings therein are not supported by the greater weight of the evidence and certainly when the decision is not supported by a weight of evidence overcoming the burden of proof beyond a reasonable doubt.

CONCLUSION

For the reasons set forth above, and in the petition for Writ of Certiorari, it is respectfully urged that rehearing be granted and that, upon such rehearing, Writ of Certiorari issue to the Court of Appeals for the Eighth Circuit Court, resubmitted.

Respectfully submitted,

ALLAN DISHONGH
Attorney at Law
1515 West Seventh, Suite 600
Little Rock, Arkansas 72202
(501) 375-5566

Counsel for Petitioners

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing petition for rehearing is performed in good faith and not for delay and is restricted to grounds specified in Rule 58, of the rules of this court.

Counsel for Petitioners

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